

United States District Court
Central District of California

MITSUI SUMITOMO INSURANCE
USA, INC.; MITSUI SUMITOMO
INSURANCE COMPANY OF
AMERICA,

Plaintiffs,

v.

KYOCERA MITA CORPORATION;
KYOCERA DOCUMENT SOLUTIONS,
INC.; KYOCERA DOCUMENT
TECHNOLOGY CO., LTD.; and
SHINDENGEN ELECTRIC
MANUFACTURING COMPANY, LTD.,

Defendants.

Case No. 2:15-cv-01860-ODW-FFM

**ORDER GRANTING DEFENDANT
SHINDENGEN ELECTRIC
MANUFACTURING COMPANY,
LTD.'S MOTION TO DISMISS [18]**

I. INTRODUCTION

Plaintiffs Mitsui Sumitomo Insurance USA, Inc. and Mitsui Sumitomo Insurance Company of American (“Plaintiffs”) seek reimbursement from Defendants Kyocera Mita Corporation, Kyocera Document Solutions, Inc. (“KDS”), Kyocera Document Technology Co., Ltd. (“KDT”), and Shindengen Electric Manufacturing Company, Ltd. (“Shindengen”) for damages paid on behalf of Plaintiffs’ insured,

1 Kyocera Document Solutions America, Ltd. (“Kyocera America”), a copier
 2 distributor. Plaintiffs allege that Shindengen manufactured a defective diode
 3 component in a copier that resulted in a fire. Shindengen now moves to dismiss the
 4 matter for lack of personal jurisdiction, arguing that it lacks any connection to
 5 California that could establish the minimum contacts required for the Court to exercise
 6 personal jurisdiction. For the reasons discussed below, the Court agrees and
 7 accordingly **GRANTS** the Motion to Dismiss.¹ (ECF No. 18.)

8 II. FACTUAL BACKGROUND

9 Kyocera America is a distributor of products, including copiers with diodes
 10 manufactured by Shindengen, and is insured by Plaintiffs. (Compl. ¶ 8.) On October
 11 11, 2008, an allegedly defective copier distributed by Kyocera America caused a fire
 12 at a commercial building in Chatsworth, California. (*Id.*) The copier was designed
 13 and manufactured by KDS and KDT and contained an allegedly defective diode
 14 manufactured by Shindengen. (*Id.* ¶¶ 17–18.) The insurers of the commercial
 15 building sued Kyocera America for damages resulting from the fire. (*Id.* ¶ 9.) After
 16 settling claims with the commercial building’s insurers on behalf of Kyocera America,
 17 Plaintiffs brought this indemnification claim against KDS, KDT, and Shindengen. (*Id.*
 18 ¶¶ 17–18.)

19 Shindengen is a Japanese company with its principal place of business in Japan,
 20 where it manufactures diodes and other electronics. (*Id.* ¶ 4; Opp’n 3.) Plaintiffs
 21 allege that Shindengen owns a subsidiary, Shindengen America, which is incorporated
 22 in California. (*Id.*) Shindengen America is not a defendant in this action, and has no
 23 involvement in the underlying incident. Plaintiffs further allege that 2.9 percent of
 24 Shindengen’s sales are made to American customers. (*Id.* 8.) Shindengen has no
 25 other connections to California.

26
 27 ¹ Having carefully considered the papers filed in support of and in opposition to the Motions to
 28 Dismiss, the Court deems the matter appropriate for decision without oral argument. Fed. R. Civ. P.
 78; L.R. 7-15.

1 Plaintiffs filed this claim in the Los Angeles Superior Court on December 10,
 2 2014. (Not. of Removal ¶ 1.) Defendant KDS timely removed the action to this
 3 Court. (ECF No. 1.) On May 7, 2015, Shindengen filed a Motion to Dismiss the
 4 claim for lack of personal jurisdiction, pursuant to Federal Rule of Civil Procedure
 5 12(b)(2).² (ECF No. 18.) Plaintiffs timely opposed, and Shindengen timely replied.
 6 (ECF Nos. 21, 26.) Shindengen’s Motion to Dismiss is now before the Court for
 7 consideration.

8 III. LEGAL STANDARD

9 When a defendant moves to dismiss a case for lack of personal jurisdiction
 10 under Federal Rule of Civil Procedure 12(b)(2), the plaintiff bears the burden of
 11 demonstrating that the court may properly exercise jurisdiction over the defendant.
 12 *Love v. Assoc’d Newspapers, Ltd.*, 611 F.3d 601, 609 (9th Cir. 2010). If the motion to
 13 dismiss is based on written materials rather than an evidentiary hearing, the plaintiff
 14 need only make a *prima facie* showing that jurisdiction exists. *Id.* The court takes the
 15 plaintiff’s uncontested version of facts as true, and any conflicts over the facts must
 16 be resolved in the plaintiff’s favor. *Doe v. Unocal Corp.*, 248 F.3d 915, 922 (9th Cir.
 17 2001).

18 “The general rule is that personal jurisdiction over a defendant is proper if it is
 19 permitted by a long-arm statute and if the exercise of that jurisdiction does not violate
 20 federal due process.” *Pebble Beach Co. v. Caddy*, 453 F.3d 1151, 1154 (9th Cir.
 21 2006). California’s long-arm statute is coextensive with federal due process
 22 requirements, so the jurisdictional analysis for a nonresident defendant under state law
 23 and federal due process is the same. *See* Cal. Code Civ. Proc. § 410.10; *Roth v.*
 24 *Garcia Marquez*, 942 F.2d 617, 620 (9th Cir. 1991).

25 The Fourteenth Amendment’s Due Process Clause allows a court to exercise

26
 27 ² KDS and KDT also filed Motions to Dismiss for lack of personal jurisdiction. (ECF Nos. 7,
 28 12.) The Court deferred ruling on these motions and granted limited jurisdictional discovery as to
 KDS and KDT.

1 personal jurisdiction over a defendant who has sufficient “minimum contacts” with
 2 the forum state such that the exercise of jurisdiction “does not offend traditional
 3 notions of fair play and substantial justice.” *Int'l Shoe Co. v. Washington*, 326 U.S.
 4 310, 316 (1945) (quotation marks omitted). Applying the “minimum contacts”
 5 analysis, a court may exert either general jurisdiction or specific jurisdiction over a
 6 nonresident defendant. *Unocal*, 248 F.3d at 923. General jurisdiction is established
 7 when the defendant’s activities in the forum state are “continuous and systematic” in
 8 such a way that justifies the exercise of jurisdiction even if the cause of action is
 9 unrelated to these activities. *Doe v. Am. Nat'l Red Cross*, 112 F.3d 1048, 1050 (9th
 10 Cir. 1997). Specific jurisdiction arises when a defendant’s specific contacts with the
 11 forum state give rise to the cause of action. *Helicopteros Nacionales de Colombia*
 12 S.A. v. *Hall*, 466 U.S. 408, 414 (1984).

13 IV. DISCUSSION

14 Plaintiffs argue that Shindengen’s ownership of a California corporation and its
 15 sale of 2.9 percent of its products to customers in the United States are sufficient to
 16 confer jurisdiction over Shindengen in California. In the alternative, Plaintiffs request
 17 leave to perform discovery to further establish Shindengen’s ties to California. The
 18 Court disagrees that such contacts are sufficient to confer jurisdiction, and denies
 19 Plaintiffs’ request for leave to conduct jurisdictional discovery.

20 A. Personal Jurisdiction

21 As an initial matter, Plaintiffs do not attempt to argue that the Court has general
 22 jurisdiction over Shindengen. (Opp’n 2.) Therefore, the Court will only address
 23 specific jurisdiction. A court may assert specific jurisdiction over a defendant when
 24 the claim asserted against the defendant arises out of its forum-related activities. *Rano*
 25 v. *Sipa Press Inc.*, 987 F.2d 580, 588 (9th Cir. 1993). The Ninth Circuit applies a
 26 three-prong test to determine whether a court may properly exercise specific
 27 jurisdiction over a nonresident defendant: (1) the defendant must purposefully avail
 28 itself of the benefits and protections of the forum state; (2) the claim must arise out of,

1 or be related to, the defendant's forum-related activity; and (3) exercise of jurisdiction
 2 must comport with fair play and substantial justice. *Schwarzenegger v. Fred Martin*
 3 *Motor Co.*, 374 F.3d 797, 802 (9th Cir. 2004). The plaintiff bears the burden of
 4 proving the first two prongs of the test. *Id.* If the plaintiff succeeds in establishing
 5 both of these prongs, the burden then shifts to the defendant to "present a compelling
 6 case" that the exercise of jurisdiction would not be reasonable. *Id.*

7 Plaintiffs and Shindengen focus their arguments on the first prong of the test—
 8 whether Shindengen purposefully availed itself of the benefits and protections of
 9 California. A defendant purposefully avails itself of the benefits and protections of a
 10 forum state when it "perform[s] some type of affirmative conduct which allows or
 11 promotes the transaction of business within the forum state." *Sinatra v. Nat'l*
 12 *Enquirer, Inc.*, 854 F.2d 1191, 1195 (9th Cir. 1988). Plaintiffs contend that
 13 Shindengen placed products, including the diode component of the copier, into the
 14 stream of commerce and specifically targeted consumers in California. Plaintiffs
 15 support this argument by providing evidence that Shindengen owns a subsidiary,
 16 Shindengen America, which is incorporated in California. (Opp'n 4.) Plaintiffs
 17 further offer evidence that 2.9 percent of Shindengen's sales are made to American
 18 customers. (*Id.*)

19 Shindengen does not dispute these facts, but instead argues that they are
 20 insufficient to establish specific jurisdiction. (Reply 2.) Shindengen points to the fact
 21 that it is a Japanese company with no office, phone number, bank account, or
 22 employees in California. (Mot. 12.) Shindengen also points out that it manufactured
 23 the allegedly defective diode in Japan, and the diode was incorporated into the copier
 24 in Japan before it was shipped to California. (Reply 2.)

25 Placing goods into the stream of commerce establishes purposeful availment
 26 only when the defendant acts "with the expectation that [the goods] will be purchased
 27 by consumers within the forum State." *World-Wide Volkswagen Corp. v. Woodson*,
 28 444 U.S. 286, 298 (1980). "[F]inancial benefits accruing to the defendant from a

1 collateral relation to the forum State will not support jurisdiction if they do not stem
 2 from a constitutionally cognizable contact with that State.” *Id.* at 299. Additionally,
 3 mere foreseeability that a product will reach and be used in the forum state cannot
 4 satisfy the requirements for personal jurisdiction. *See J. McIntyre Mach., Ltd. v.*
 5 *Nicastro*, 131 S. Ct. 2780, 2783 (2011) (plurality opinion); *Bombardier Recreational*
 6 *Prod., Inc. v. Dow Chem. Can. ULC*, 216 Cal. App. 4th 591, 598 (2013) (“We
 7 conclude both the plurality and the concurring opinions in *J. McIntyre* agree that mere
 8 foreseeability, at least where products are not sold in a state as part of the regular and
 9 anticipated flow of commerce into that state, is not enough to establish minimum
 10 contacts with the forum state.”). A plaintiff must show something more than
 11 foreseeability, although precisely what additional showing is sufficient has not yet
 12 been determined by the Supreme Court. *See Bombardier*, 216 Cal. App. 4th at 602.

13 The Court agrees with Shindengen that its contacts with California are
 14 insufficient to satisfy the purposeful availment requirement. First, Shindengen’s sales
 15 to the United States in general do nothing to show that it targeted California in
 16 particular. *See Hernandez v. City of Beaumont*, No. EDCV 13-00967 DDP (DTBx),
 17 2014 WL 6943881, at *4 (C.D. Cal. Dec. 8, 2014). Second, 2.9 percent of total sales
 18 is not a large enough portion of sales to indicate that Shindengen should anticipate a
 19 continuous flow of products into California, particularly when that 2.9 percent is
 20 potentially spread across the entire United States.

21 Plaintiffs rely almost entirely on *Bridgestone Corp. v. Superior Court*, 99 Cal.
 22 App. 4th 767 (2002), to support their argument that Shindengen has sufficient contacts
 23 with California to establish personal jurisdiction. In *Bridgestone*, the defendant, a tire
 24 manufacturer, delivered 25,000 tires per month to a California distributor for resale in
 25 California. *Id.* at 777. One-half of these tires were then sold to consumers in
 26 California. *Id.* Defendant’s representatives also visited the distribution center in
 27 California, and the court found that the defendant therefore likely knew about the
 28 large volume of tires sold in California. *Id.* *Bridgestone* is factually inapposite

1 because the connection between Shindengen and California is more attenuated than
2 the connection between the tire manufacturer and California in *Bridgestone*. Whereas
3 the *Bridgestone* defendant delivered tires directly to a California distributor for
4 delivery and sale, the diodes manufactured by Shindengen went through multiple steps
5 and entities before being sold to any company in the United States. First, Shindengen
6 sold diodes to Defendant KDT who incorporated the diodes into copiers. Next, the
7 copiers were sold by another defendant, KDS, to Kyocera America, who then sold the
8 completed product to the commercial property in California. (Opp'n 5; KDS Mot. 2–
9 3, ECF No. 12.) Plaintiffs offer no evidence suggesting that Shindengen maintained
10 any control over the eventual destination of the diodes after selling them to KDS.

11 Furthermore, Plaintiffs make no showing that the amount of Shindengen's total
12 American sales is as great as 25,000 or that the percentage of these sales made to
13 California is anywhere close to 50 percent, as was the case in *Bridgestone*.

14 Finally, the bare fact that a nonresident parent corporation owns a subsidiary
15 incorporated within the forum state cannot establish personal jurisdiction over the
16 parent corporation. See *Stewart v. Screen Gems-EMI Music, Inc.*, 81 F. Supp. 3d 938,
17 954 (N.D. Cal. 2015). Instead, the plaintiff must show that the parent and subsidiary
18 are not really separate entities, but alter-egos. *Id.* Here, the plaintiff has provided no
19 facts beyond the bare allegation that Shindengen owns a subsidiary incorporated in
20 California, and there is no suggestion that the subsidiary is involved with the type of
21 transactions at issue in this lawsuit. (Mot. 3.) This allegation is not sufficient to
22 establish personal jurisdiction on its own. The Court therefore finds that it lacks
23 personal jurisdiction over Shindengen.

24 **B. Jurisdictional Discovery**

25 In the event that the Court determines that it does not have personal jurisdiction
26 over Shindengen, Plaintiffs request jurisdictional discovery as to Shindengen's
27 contacts with California. (Opp'n 10–11.) Jurisdictional discovery “may be
28 appropriately granted where pertinent facts bearing on the question of jurisdiction are

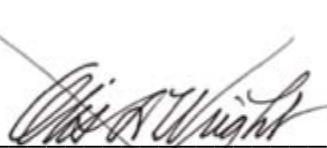
1 controveorted or where a more satisfactory showing of the facts is necessary.” *Data*
2 *Disc, Inc. v. Systems Tech. Assoc., Inc.*, 557 F.2d 1280, 1285 n. 1 (9th Cir. 1997). A
3 court may deny such discovery “when it is clear that further discovery would not
4 demonstrate facts sufficient to constitute a basis for jurisdiction.” *Wells Fargo & Co.*
5 *v. Wells Fargo Express Co.*, 556 F.2d 406, 430 n. 24 (9th Cir. 1977). The Court finds
6 that Plaintiffs’ claim of personal jurisdiction is so bare that their request for
7 jurisdictional discovery should be denied. *See Pebble Beach*, 453 F.3d at 1160
8 (“[W]here a plaintiff’s claim of personal jurisdiction appears to be both attenuated and
9 based on bare allegations in the face of specific denials made by the defendants, the
10 Court need not permit even limited discovery.” (internal citation and quotation marks
11 omitted)). Plaintiffs have not even suggested what facts might exist that could
12 establish sufficient contacts between Shindengen and California. The Court therefore
13 denies Plaintiffs’ request for jurisdictional discovery.

14 **V. CONCLUSION**

15 For the reasons discussed above, the Court **GRANTS** Shindengen’s Motion to
16 Dismiss for Lack of Personal Jurisdiction. (ECF No. 18.) Shindengen is hereby
17 dismissed from this action.

18 **IT IS SO ORDERED.**

19
20 October 6, 2015

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23 **OTIS D. WRIGHT, II**
24 **UNITED STATES DISTRICT JUDGE**

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